THE HON'BLE MR JUSTICE B.PRAKASH RAO

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL Nos. 748 and 749 of 2005

Dated: 25.10.2005

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WRIT APPEAL No. 748 of 2005

Between:

T.G.Koteswara Reddy S/o.Kaniki Reddy
Mahabubnagar Milkshed, Mahabubnagar
Andhra Pradesh.

..... APPELLANT

AND

The Presiding Officer, Additional Industrial Tribunal-Cum- Labour Court-I, Hyderabad and another.

.....RESPONDENTS

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WRIT APPEAL No.749 of 2005

Between:

The Managing Director, A.P.Dairy Development Co-op, Federation Ltd.,
rep.by its Managing Director, Lalapet, Hyderabad.

..... APPELLANT

AND

The Presiding officer, Additional Industrial Tribunal-cum-Labour Court, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

AND

THE HON'BLE Dr.JUSTICE G.YETHIRAJULU

WRIT APPEAL Nos.748 and 749 of 2005

COMMON JUDGMENT: (per the Hon'ble Sri.Justice B.Prakash Rao)

These appeals are at the instance of the employee and the Management respectively, against the order passed by the learned Single Judge in Writ Petition Nos.18845 and 23036 of 2003, filed by the employee and the Management, respectively.

Heard Sri N.Rajeswar Rao, learned Standing Counsel appearing on behalf of the Management and also Sri T.G.Koteswar Reddy, party-in- person.

A few facts which are necessary for disposal of these appeals are that the employee, who has been working at the relevant point of time as Godown Assistant at the respondent-Corporation, was charged for misconduct of shortage of 65 metric tones of molasses during the period from 1981 to 1996 and thereupon a charge sheet was issued and enquiry was conducted and ultimately he was dismissed from service. On raising a dispute, the matter went to the Labour Court, wherein the Labour Court having found that the charges and contents therein are wholly vague and unsupported by any evidence and material, set aside the order of dismissal and passed an award directing reinstatement of the employee with continuity of service and all attendant benefits without any back wages and further directed for refund of a sum of Rs.74,482/- which has been paid by the employee.

Learned standing counsel appearing for the Management submits that having regard to the fact that the employee himself had admitted and paid the amount and

further in view of the seriousness of the allegations, the question of setting aside the order of dismissal or granting any relief to the employee does not arise.

The party-in-person sought to contend that having given a finding that the employee is not guilty of the charges with which he was charged, both by the Labour Court and the learned Single Judge, the back wages ought not to have been denied.

Considering the submissions on either side and also on a perusal of the material on record, the questions that arise for consideration are whether on the facts and circumstances of the case the employee is entitled to back wages and also whether the direction for refund of Rs.74,482/- is sustainable?

There is no dispute to the fact that a disciplinary enquiry was initiated against the employee and ultimately he was dismissed.

The main charge was with regard to shortage of molasses while the employee was working as Godown Assistant. The Labour Court, after the enquiry, has given a categorical finding to the effect that in support of the charges, there is absolutely no material on record apart from the fact that the very charges themselves are vague and no details are forthcoming. The learned Single Judge also found that in support of the charges, no material is produced and therefore the same are not sustainable. However, at both levels, the back wages have been denied and the learned Single Judge sustained the direction given by the Labour Court for refund of Rs.74,482/-.

On a perusal of the material on record, it is quite apparent that it is only this employee, who has been sought to be proceeded against, though there are other employees who are also concerned with. For that no explanation is forthcoming as to why proper action was not taken immediately. Further, in view of the finding given by the Labour Court that the charges themselves are totally baseless apart from the fact that they are not supported by any material and the same having been duly confirmed by the learned Single Judge, it is to be held that the employee is virtually exonerated from the allegations without any attribution. Therefore, in the absence of any reasons assigned, the question of denial of back wages does not arise. It is not the case of the Management that the employee has been otherwise engaged. Though it has been pointed out by the leaned Standing Counsel that the amount has been paid only at the instance of the employee, the employee stated that the said amount has been paid due to the threat of suspension. Be that as it may, having

regard to the fact that no finding is arrived at against the employee by the Labour Court as well as the learned Single Judge, it cannot be said that he should be punished or denied of back wages more so when he is acquitted of the charges with a direction for reinstatement. It is also to be noted that when once the employee is found not guilty, necessarily he should be entitled for all the consequential benefits unless the same has been denied for the reasons recorded. In the present case, no such reasons are assigned at any level.

In the circumstances, Appeal No.748 of 2005 is allowed and Appeal No.749 of 2005 is dismissed directing the payment of back wages to the employee. However, the direction given by the Labour Court for refund of Rs.74,482/- is set aside. The Management shall pay the entire back wages to the employee within a period of four weeks from the date of receipt of a copy of this order. No costs.

(B.PRAKASH RAO,J)

Dated 25th October, 2005.

SH (Dr.G.YETHIRAJULU, J)